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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/876,943
Filing Date: June 08, 2001
Appellant(s): BERKUN ET AL.

J. Mason Boswell, Reg.No. 58388
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 08/21/2006 appealing from the Office action mailed 10/20/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US Patent 6549922   Srivastava

US Patent 6493720   Chu

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 1-17 (as amended) are rejected under 35 U.S.C. 112, second paragraph,

as being indefinite for failing to particularly point out and distinctly claim the subject

matter which applicant regards as the invention.

Claims 1, 2,3, 9,10,11, 14,15 recite a limitation regarding 'authoritative metadata'. The Applicant has not provided sufficient guidance on the meaning of 'authoritative metadata' from an 'authoritative source', and the characteristics of said 'authoritative metadata' and 'authoritative source'.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5-11, 13-17 rejected under 35 U.S.C. 102(b) as being anticipated by Srivastava et al. (US Patent 654922) hereinafter referred to as Srivastava.

With respect to Claim 1, Srivastava discloses a method for enhancing metadata associated with media on a communications network, said method comprising the steps of: parsing said metadata associated with said media into at least one field of metadata; (Column 1 Lines 40-65,Column 2 Lines 40-65) comparing each of said at least one field of metadata with at least one field of metadata from an authoritative source, each field of metadata compared with each field of authoritative metadata being a compared field;

(Column 5 Lines 1-5) and modifying said metadata if said compared field does not match at least one field of authoritative metadata.(Column 6 Lines 15-20)

With respect to Claim 2, Srivastava discloses a method in accordance with claim 1, wherein said step of modifying said metadata comprise at least one of replacing said compared field with a corresponding field of said authoritative metadata, correcting said compared field in accordance with a corresponding field of said authoritative metadata, and adding at least one field of authoritative metadata to said metadata. (Column1 Lines 40-65,Column 2 Lines 40-65)

With respect to Claim 3, Srivastava discloses a method in accordance with claim 1, wherein said authoritative metadata is obtained from at least one of a multimedia file, a streaming media file, a uniform resource indicator (URI), a database, a media file header, a media file footer, a metatag, and a transport stream (Column 3 Lines 1-10 Column 4 Lines 30-60)

With respect to Claim 5, Srivastava discloses a method in accordance with claim 1, wherein said media comprises at least one of an extension selected from the group consisting of ram, .rm, rpm, .mov, .qif.wma, .cmr, .avi, .swf, .swl .mpg, .mpa, .mp1, .mp2, .mp3, m3a, and .m3u. (Column 1 Lines 20-50 Column 4 Lines 30-60)

With respect to Claim 6, Srivastava discloses a method in accordance with claim 1, wherein said metadata comprise elements related to at least one of content of the media, intellectual property rights associated with the media, and instantiation of the media.(Column 2 Lines 20-40)

With respect to Claim 7, Srivastava discloses a method in accordance with claim 1, wherein said media comprises at least one of multimedia and streaming media. (Column 2 Lines 20-40 Column 4 Lines 30-60)

With respect to Claim 8, Srivastava discloses a method in accordance with claim 1, wherein said communications network is a computer network.(Figure 1)

With respect to Claim 9, the applicant discloses a system with the same limitations described in Claim 1. Claim 9 is therefore rejected on the same basis as Claim 1.

With respect to Claim 10, the applicant discloses a program readable medium with the same limitations described in Claim 1. Claim 10 is therefore rejected on the same basis as Claim 1.

With respect to Claim 11, the applicant discloses a data signal with the same limitations described in Claim 1. Claim 11 is therefore rejected on the same basis as Claim 1.

With respect to Claim 13, Srivastava discloses a data signal in accordance with claim 11, wherein said media comprises at least one of an extension selected from the group consisting of .ram, .rm, .rpm, .mov, .qif .wma, .cmr, .avi, .swf, .swl .mpg, .mpa, .mp1, .mp2, .mp3, m3a, and .m3u (Column 1 Lines 20-50 Column 4 Lines 30-60)

With respect to Claim 14, Srivastava discloses a data signal in accordance with claim 11, wherein said modify metadata code segment performs at least one of replacing said compared field with a corresponding field of said authoritative metadata,

correcting said compared field in accordance with a corresponding field of said

authoritative metadata, and adding at least one field of authoritative metadata to said

metadata. (Column 1 Lines 40-65,Column 2 Lines 40-65 Column 5 Lines 1-5 Column 6

Lines 15-20)

With respect to Claim 15, Srivastava discloses a data signal in accordance with

claim 11, wherein said authoritative metadata is obtained from at least one of a

multimedia file, a streaming media file, a uniform resource indicator (URI), a database, a

media file header, a media file footer, a metatag, and a transport stream. (Column 3

Lines 1-10 Column 4 Lines 30-60)

With respect to Claim 16, Srivastava discloses a data signal in accordance with

claim 11, wherein said metadata comprise elements related to at least one of content of

the media, intellectual property rights associated with the media, and instantiation of the

media. (Column 2 Lines 20-40)

With respect to Claim 17, Srivastava discloses a data signal in accordance with

claim 11, wherein said media is at least one of streaming media and multimedia files

formatted in at least one of a plurality of formats. (Column 1 Lines 40-60, Column 2

Lines 25-40 Column 4 Lines 30-60)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 4 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over

Srivastava et al. (US Patent 654922) hereinafter referred to as Srivastava, in view of

Chu et al. (US Patent 6943720) hereinafter referred to as Chu.

With respect to Claim 4, Srivastava discloses a method in accordance with claim

1, further comprising the steps of: receiving said metadata and corresponding media

files, wherein said corresponding media files are formatted in at least one of a plurality

of formats; providing media files formatted in the same format and associated metadata

to a corresponding format specific metadata extractor; (Figure 1, Column 2 Lines 40-65,

Column 4 Lines 30-60, Column 5 Lines 1-5, Column 6 Lines 15-20)

With respect to Claim 12, Srivastava discloses a data signal in accordance with

claim 11, further comprising: a receive code segment for receiving said metadata and

corresponding media files, wherein said media files are formatted in at least one of a

plurality of formats; a distribute code segment for providing media files formatted in the

same format and associated metadata to a corresponding format specific metadata

extractor;

However, with respect to Claim 4, Srivastava does not disclose determining if a

media file is unavailable or corrupt; and if said media file is unavailable or corrupt,

performing said step of comparing at a predetermined time in the future. With respect to

Claim 12, Srivastava does not disclose a validity code segment for determining if a

media file is unavailable or corrupt; and if said media file is unavailable or corrupt, a

reschedule code segment for performing said step of comparing at a predetermined

time in the future.

Chu discloses (re. Claim 4, 12) a method for a metadata synchronizer wherein, at

specified intervals, an object is monitored to identify changes to metadata of that

object. The method may be used to check if the URL describing the location of a

media file is still working after a certain period of time. (Abstract, Column 7 Lines 35-

65)

Srivastava and Chu are analogous art because they present concepts and

practices regarding extraction, update and management of metadata associated with

media files. At the time of the invention it would have been obvious to a person of

ordinary skill in the art to incorporate a monitoring schedule for checking the validity of

metadata related to a media file as taught by Chu into the method and system

described by Srivastava. The motivation for said combination would have been, as

Chu suggests, to allow for situations wherein the system enables users to add or

modify metadata for objects in a database. Additionally, some systems may store the

metadata for the objects in multiple locations. If the metadata stored at one location

changes, the metadata stored at other locations is no longer in synch. Monitoring the

media files for validity results in timely updates to the metadata for the media files

before the users can detect the inconsistencies in the system.

(10) Response to Argument

Rejection Under 35 U.S.C. . 112, Second Paragraph

The Applicant presents the following argument(s) [*in italics*]:

The term "authoritative" as used by applicant is a term commonly used by those

skilled in the art, and indicates that metadata comes from a source regarded as having

a high level of accuracy...The language in the specification cited...is consistent and

indicates that metadata from an authoritative source is known to be accurate. Finally,

the dictionary meaning cited above provides further support that the term is well defined

in the art.

The Examiner respectfully disagrees with the Applicant. The terms on which the

Applicant relies upon to define 'authoritative', namely 'reliable' and 'accurate', are both

relative terms. The claims are considered indefinite because they do not indicate

sufficient basis for determining what is 'authoritative' and/or 'accurate'.

Rejections Under 35 U.S.C. 102(b)

The Applicant presents the following argument(s) [*in italics*]:

Srivastava teaches neither modifying metadata associated with media at all, nor

comparing metadata associated with media with authoritative metadata from an

authoritative source or otherwise looking to auxiliary sources of metadata when the

metadata is available from the media...Srivastava only discloses gathering metadata

associated with media to a centralized source, and only discloses referring to auxiliary

sources when the metadata is not available from the media itself.

The Examiner respectfully disagrees with the Applicant. Srivastava teaches '

modifying metadata associated with media' (Srivastava-Column 6 Lines 15-20) and

'*comparing metadata associated with media with authoritative metadata from an*

authoritative source' (Srivastava-Column 5 Lines 1-5) and '*looking to auxiliary sources*

of metadata when the metadata is available from the media' (Srivastava-Column 1

Lines 55-66)

With regards to comparing the contents, the Examiner notes that Srivastava

disclosed storing the metadata in a database format, such that the data may be

accessed or searched using standard query procedures, such as SQL (Structured

Query Language) that is common to relational databases. The Examiner suggests that

the process of querying involves indicating a field name and value of the data that is

used as an operand in searching the database. Hence the process of querying

disclosed the concept of comparing the contents of the metadata.

In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., *looking to auxiliary sources of metadata when the metadata is available from the*

media) are not recited in the rejected claim(s). There is nothing in the Claim language

that suggests said metadata is available from the [media] file itself.

The Applicant presents the following argument(s) [*in italics*]:

Srivastava has no teaching of modifying metadata associated with media.

Srivastava simply extracts the metadata from the media and stores it in a database.

The Examiner respectfully disagrees with the Applicant. The Examiner notes

Srivastava Column 2 Lines 40-45, which states that 'the present invention provides a

framework which may be used to advantage to capture, transform, process, and store

metadata.' Srivastava disclosed a transformer module that provides the resulting

collected metadata to a formatter, whereupon said formatter converts the collected and

generated metadata into a corresponding database schema. (Srivastava - Column 2

Lines 55-65) The metadata which is stored in the database may then be accessed by

application programs in standard ways to perform data management, search, retrieval

and playback functions. (Srivastava - Column 2 Lines 5) Furthermore, the client

computer 130 may also be used to identify or accept auxiliary metadata which

describes the media file being processed, the auxiliary data being accepted as a user

keyboard entry or by identifying the URL of Internet data which contains externally

located metadata which describes the media file 113 being processed. (Srivastava -

Column 3 Lines 5) The user can add attributes to the extracted annotation or change

the attribute values. (Srivastava - Column 4 Lines 15-20) The Examiner suggests that

the concepts of transforming metadata, generating metadata, formatting metadata, and

accepting user input as auxiliary metadata are all indicative of modifying the actual

content of the extracted metadata fields.

As the Examiner suggests above, Srivastava has presented several concepts

regarding modify the contents of the metadata.

The Applicant presents the following argument(s) [*in italics*]:

Although Srivastava may also gather metadata from auxiliary sources, it does so

only when the metadata is not available from the file itself... In order to be compared,

the metadata must always be gathered from two sources. Therefore, Srivastava does

not compare metadata fields in the way that applicant's technology describes.

The Examiner respectfully disagrees with the Applicant. Srivastava disclsosed

that '*annotations can be overridden or replaced with a completely new set*' (Srivastava-

Column 6 Lines 15-20). The Examiner notes that since Srivastava already disclosed

obtaining the metadata from the file, Srivastava must be referring to gathering metadata

from auxiliary sources and using said auxiliary metadata for overriding and replacing the

existing [previously obtained] set.

The Examiner notes that the Claims describe '*metadata associated with media*'.

There is nothing in the Claim language that suggests said metadata is available from

the [media] file itself.

Rejections Under 35 U.S.C. 103(a)

The Applicant presents the following argument(s) [*in italics*]:

The Examiner relies upon Chu for teaching "determining if a media file is

unavailable or corrupt."... Chu does not teach determining if a media file is unavailable

or corrupt... The portion of Chu cited by the Examiner discusses a scheduled process

within Chu that periodically checks for changes in the metadata of a file, and if the

metadata has changed, the process synchronizes the metadata with a central repository

of metadata. There is no suggestion in Chu that the metadata or file could be

unavailable or corrupt, or of any action to take in response.

The Examiner respectfully disagrees with the Applicant. Srivastava disclosed

wherein the media resource is accessed by using a pointer URL, (Srivastava-Column 8

Lines 45-50), said pointer URL being considered as 'metadata'. Thus, when the pointer

URL contains erroneous data, an access request using said URL results in an access

error condition with said 'media resource' being described as 'unavailable'. Chu also

disclosed using metadata to locate desired information (Chu-Column 4 Lines 10-15).

The Examiner notes that at the time of the invention it would have been well-known in

the art that given the Srivastava disclosure, when Chu disclosed determining metadata

that is out of synch (Chu-Column 1 Lines 55-60) Chu disclosed '*determining if a media*

file is unavailable or corrupt' and also disclosed that the synch mechanism is in

response to an 'unavailable media' condition.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.
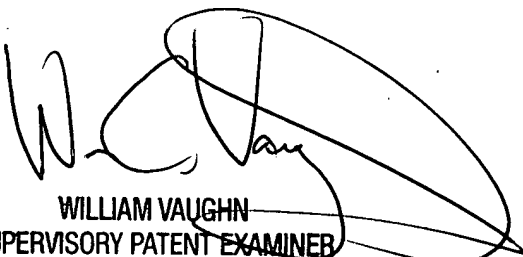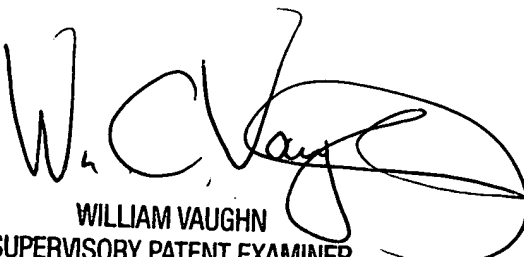
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